



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 5519-00
29 January 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel for the Board for Correction of Navy Records, sitting in executive session, considered your application on 24 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 11 October 1978 for four years and were ordered to active duty as an AE2 (E-5). At the time of your enlistment, you had completed four years of prior active service. You extended your enlistment for an additional period of 24 months on 10 September 1982.

The record reflects that you served without incident until 15 May 1983 when a Navy drug laboratory reported that you had tested positive for marijuana. However, it does not appear that any disciplinary action was taken. On 2 June 1983 you were formally evaluated as a drug or alcohol abuser but were considered to have potential for continued service. You were placed in a level I substance abuse program and were to be tested once a month for the next six months.

On 1 September 1983 a Navy drug laboratory reported that you had again tested positive for marijuana. A substance abuse report

filed on 10 September 1983 states that you had been tested under a "regimen urinalysis program." You tested negative in June and July, but tested positive for marijuana in August.

On 28 September 1983 you were notified that separation under honorable conditions was being considered by reason of drug abuse rehabilitation failure. You were advised of your procedural rights and waived the right to present your case to an administrative discharge board (ADB). However, you did submit a statement in which you agreed that discharge was appropriate, but you emphatically denied being a drug rehabilitation failure.

On 2 December 1983 the commanding officer recommended a general discharge by reason of drug abuse rehabilitation failure. He stated that you exhibited no potential for further service due to your continued use of marijuana, and noted it was your desire to terminate your career. Thereafter, Commander, Naval Military Personnel Command approved the recommendation for separation and directed discharge with the type of discharge warranted by the record and assignment of an RE-4 reenlistment code. You were honorably discharged on 24 January 1984.

Regulations require the assignment of an RE-4 reenlistment code and a separation code of "JPC" to individuals discharged by reason of drug abuse rehabilitation failure. The Board noted the enlisted performance evaluations submitted in support of your application, your desire to reenlist in the reserves, contention that you were never offered rehabilitation, and your letter explaining the circumstances which led to your discharge. You state that you did not know you had an alcohol and drug problem at that time and had you been confronted, you would have denied it. You claim you stopped smoking marijuana but alcohol became the substance of choice and it took seven years after you were discharged before you sought professional help. You further claim you have more than nine years of sobriety and employers have hired you knowing full well you are a recovering alcoholic. The character and courage it took for you take responsibility for your sobriety is commendable. However, while the Board is sympathetic with your desire to reenlist in the reserves, the Board finds no basis for changing the reason for discharge or a correctly assigned reenlistment code or separation code. There is no evidence at the time of your service you were diagnosed as being drug dependent. In-patient rehabilitation is reserved for those who are dependent and have potential for further service. Your continued use of marijuana while in a level I program met the criteria for separation by reason of drug abuse rehabilitation failure. Since you were treated no differently than others discharged under similar circumstances the Board could find no error or injustice in your assigned separation and reenlistment codes. Accordingly, your application has been

denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director